IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.438 OF 2007
IN
CRIMINAL APPEAL NO.1178 OF 2005

Gurudevsingh Jagjitsingh Grover ..Applicant
V/s
The State of Maharashtra ..Respondent.

Mr.H.E. Mooman, Advocate for the applicant.
Mr. Y.S. Shinde, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : 23RD APRIL, 2007.

P.C.

. Heard Mr Mooman, learned Counsel for the applicant, who is original accused No.3 and Mr.Shinde, learned APP for the State. The applicant is one of the five persons, who were convicted for the offence punishable under section 397 of IPC and were sentenced to undergo R.I. for seven years and to pay fine of Rs. 500/-. They were also convicted under section 3 r/w section 25 of Indian Arms Act and were sentenced to undergo R.I. for one year and to pay fine of Rs.300/-. The applicant has preferred Criminal Appeal No.1178/2005. The appeal is admitted. By this Application, he seeks to be released on bail.

2. The learned Counsel has taken me through the record. The record reveals that the applicant had earlier filed Criminal Application NO..8187/2005 for bail. That application was rejected by order dated 20th March, 2006 on the ground that the applicant was arrested by the police immediately after the offence and dangerous weapon was seized from him. The gold ornaments were also recovered from the car immediately after the incident.

3. The learned Counsel for the applicant contended that even according to the prosecution, firearm was recovered only from accused No.1 and therefore, all the five accused persons could not be convicted under section 3 r/w section 25 of the Arms Act. He also contended that out of the five persons only four persons had entered into the shop and committed the offence. The present applicant was not one of them and according to him none had identified him as the driver of the car by which the culprits had run away as alleged by the prosecution. On the other hand, it is pointed out by the APP that it was the case of dacoity. While four persons entered into the shop, the present applicant was sitting in the car waiting at some distance and after

the incident those four persons escaped by the said car driven by the present applicant. After a chase, the present applicant and four others were caught. The present applicant had not given any explanation about his presence on that spot. Taking into consideration these circumstances, I am not inclined to grant bail to the applicant.

4. Application stands rejected. However, as applicant is in jail for last about three years and as the applicability of section 3 r/w section 25 of the Arms Act, as well as Section 397 IPC is questioned by the learned Counsel for the applicant, in my opinion, it will be necessary to expedite the hearing of the appeal itself. Paper Book be got prepared within next two months and thereafter Appeal No.1178/2005 be listed for final hearing. Meanwhile, the Registrar shall also find out whether the other accused persons have preferred any appeal. In case, such appeals are filed, they should also be placed along with the present appeal for final hearing.

(J.H. BHATIA, J.)